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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,617	10/24/2003	Mark F. Bares	M297.12-0283	6470

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400 - INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

EXAMINER

UNDERWOOD, DONALD W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/693,617	Applicant(s) BARES ET AL.	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18 and 20-27 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/24/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>061804 062104</u> . | 6) <input type="checkbox"/> Other: ____ |

Detailed Action

1. The drawing is objected to under 37CFR 1.84(p)(5) as failing to contain all of the numerals in the detailed disclosure. For example, "35" in line 1 on page 8, "58x" in line 6 on page 10 and "76B" in line 11 on page 13 do not appear in the drawing. Also note 122 in figure 18 and 170 in figure 19 need leadlines and the leadline for 138 in figure 18 is incorrect and 124 and its leadline in the lower right quadrant in figure 19 should be deleted. The drawing and the detailed disclosure should be carefully reviewed and amended to insure the numerals in one appear in the other. Note 148 in figure 18 is not in the detailed disclosure. The introduction of new matter should be guarded against.
2. The status of U.S. patent applications 10/000,847 and 10/044,104 should be kept current. Applicants are also reminded of their responsibility to maintain a clear line of patentability between the instant case and all related cases.
3. In the specification, page 8, line 1, "26" should be --34--; page 11, line 23, "60A" should be --62A--; page 20, last line "Th" should be --The--.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The paragraph in lines 13-21 on page 19 is unclear. It is unclear how link 146 locks and unlocks. It appears 148 in figure 18 is the attachment for an unlocked position and 124 would be the attachment for a locked position. This is unclear from the specification. Clarification is required.

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5. Claims 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear how the linkage locks and unlocks. See preceding paragraph.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-8, 12, 13, 15-18 and 20-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, --attachment-- should be inserted before "support" in line 5.

Note "attachment support" in line 8.

Regarding claim 2, the phrase "and the attachment support is supported on the first pivot to the lift arms" in lines 2-4 is redundant of claim 1 and should be deleted and the connection between the link and the loader frame should be correlated with the connection between the link and other portions in claim 1.

Regarding claim 3, this claim contradicts claim 1 and is thus indefinite. Note claim 3 sets forth that the link is connected to the container however claim 1 connects it to the attachment support.

Regarding claim 12, this claim is incomplete since no structure is set forth to provide the tilting.

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Regarding claims 13, this claim depends from claim 11 which is directed to the species in figure 10 while the instant claim is directed to the species in figure 1 rendering this claim indefinite.

Regarding claim 15, this claim sets forth a desired result but is void of structure to provide the result and is thus incomplete.

Regarding claim 16, this claim is incomplete since no structure is provided to provide the tilting.

Regarding claim 17, the locking linkage needs to be positively correlated with the other claimed elements to provide the desired result set forth in the claim. Otherwise the claim is indefinite. Also the linkage does not prevent pivoting between the attachment and the support for the attachment as claimed. For example, see attachment 120 and support 126 in figure 18.

Regarding claim 18, "a linkage" bridging lines 1 and 2 should be positively correlated with the locking linkage in claim 17 to avoid indefiniteness.

Regarding claim 20, "a loader having arms" bridging lines 7 and 8 should be correlated with "a loader arm" and "a loader frame" in lines 2 and 3.

Regarding claim 22, "a loader" bridging the last two lines should be correlated with "a loader" in claim 20.

Regarding claim 24, "mounts" in line 4 should be --mount-- and "the moveable members" bridging lines 4 and 5 should be correlated with "the link mechanism" bridging lines 2 and 3.

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Regarding claim 25, "a portion" in line 3 should be correlated with "a portion" in claim 20.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rohrbaugh.

Note figure 11 in Rohrbaugh wherein 36 is the attachment support, 66 the arm and the tab between 36 and 37 is synonymous with the link.

10. Claims 9, 11 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by British reference 757, 638.

Note arm 11 in the reference.

Regarding claim 14, note the tab on the bucket for pivot 16 comprising an integral support.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrbaugh in view of the following comments.

It would have been obvious to provide walls around 36 if desiring to move loose material, i.e., dirt or gravel, in view of the common use of dump trucks.

14. Claims 6, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrbaugh in view of John.

It would have been obvious to provide a mixer on Rohrbaugh in view of the teaching in John.

Regarding claim 7, whether one use a mixer as taught by John or some other conventional mixer would have been an obvious matter of design choice.

15. Claims 10 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Any inquiry concerning this communication should be directed to D. Underwood at telephone number 571-272-6933.

Underwood/vs
June 21, 2005

Ronald W. Underwood 07/06/05
RONALD W. UNDERWOOD
PRIMARY EXAMINER